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BEFORE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR(CG)

W.P. 560 2003

Single Bench.

Petitioner - SMT. SUDHA BHAT
W/o Shri Rajendra Bhat
aged about 39 years
Assistant Teacher
Govt. Primary School
Shada Para, Camp-2,
Bhilai Tah. & Distt. DURG (C.G.).
R/o D-207
Housing Board Colony,
Raipur Naka,
DURG (CG.).

Cf: 100/

P.R. No. 119/2003
Presented by Shri V.G. Talmale/KV
dated 13-01-2003.

VERSUS.

Respondents

1. State of Chhattisgarh
Through - Secretary
School Education Department,
Govt.of Chhattisgarh
Mantralaya,
D.K. Bhawan,
Raipur (M.P.).

2. State of Madhya Pradesh
Through : Secretary
School Education Department
Government of Madhya Pradesh
Mantralaya
BHOPAL (M.P.).

3. Secretary
Scheduled Caste Scheduled Tribe
and Backward Class Welfare Department
Government of Chhattisgarh,
Mantralaya
D.K. Bhawan,
G.E.Road,
RAIPUR (C.G.).

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4. District Education Officer,
DURG (C.G.).

5. Principal
Government Higher Secondary School,
Housing Board Colony,
Industrial Area,
Bhilai, Tahsil &
District - DURG (C.G.).

6. Head Master
Government Primary School,
Shardapara Camp-2,
Bhilai,
Tah. & District - DURG (C.G.).

7. Chairman / President
Madhya Pradesh
Re-organization Cell,
G.A.D.
Vallabh Bhawan
BHOPAL (M.P.).

PETITION UNDER ARTICLES 226 / 227 OF THE CONSTITUTION OF INDIA.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 560/2003 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21.09.2006

Shri V.G. Tamasakar, Counsel for the petitioner.

Shri Sushil Dubey, Govt. Advocate for the State/respondents No.1, 3, 4, 5 & 6.

Heard finally with the consent of the parties.

Order dictated as follows :

ORAL ORDER
(21.09.2006)

The petitioner, who has been allocated to the State of Chhattisgarh on the post of Assistant Teacher in a Primary School has called in question the action of the State, by which, the State after her joining in the School Education Department of Chhattisgarh and posting in Govt. Primary School, Shardapara Camp-2, Bhilai, Tehsil and District – Durg (C.G.), which belongs to the School Education Department, has expressed by various orders that since her services initially belonged to the Tribal Welfare Department in the State of Madhya Pradesh, she will be treated as an employee of the Tribal Welfare Department and her joining as well as posting in the School belonging to the Education Department has to be cancelled.

The brief facts are that the petitioner was an employee of the Tribal Welfare Department in the erstwhile State of Madhya Pradesh. When her husband was allocated to the State of Chhattisgarh in the Electricity Board, she also made an option to be allocated to the State of Chhattisgarh and on her option, an order dated 4/2/2002 (Annexure P-3) was issued in her favour by the School Education Department and she

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आदेश पत्रक

मामला क्रमांक W.P.No. 560/2003 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

was given posting in the aforesaid Primary School, where she subsequently joined. Thereafter, the cancellation orders contained in Annexures P-9, P-10 & P-11 were issued and it was directed, particularly by the order (Annexure P-10) issued on behalf of the State Government, that after cancellation of her joining in the School Education Department, her services are being repatriated to the Tribal Welfare Department. The logic behind such an action taken by the Government appears to be that the parent department of the petitioner was the Tribal Welfare Department and in the State of Madhya Pradesh itself, her services were given on deputation to the School Education Department, therefore, she cannot be permanently retained in the School Education Department and she had to be sent back to the parent department, though in the State of Chhattisgarh.

Learned counsel for the petitioner submits that since the petitioner was given joining in the State of Chhattisgarh in the School Education Department, which was altogether a new action of the Government and the petitioner in all her choice accepted the aforesaid joining, because she was given joining in the School Education Department, therefore, now her case may be considered as has been absorbed in the School Education Department and in the scenario of the new State, she should not be treated as a deputationist in the School Education Department and her services cannot be returned back to the Tribal Welfare Department. The submission of learned counsel for the petitioner is that the status of the petitioner as a deputationist in the erstwhile State of Madhya Pradesh ended after the re-organization and her allocation in the State of Chhattisgarh should be treated as a fresh action of the Government and

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

her case should be treated as if she has been absorbed in the School Education Department instead of treating her as a deputationist in this State also.

An application for dismissal of the Writ Petition has been filed vide I.A. No.7667/2004 by the State. Alongwith the aforesaid interim application, an order issued by the State Government on 22/9/2004 vide Annexure R.A has been filed.

Learned counsel for the respondents/State submits that by the said order, all the impugned orders of this petition have been withdrawn and ultimately, the services of the petitioner have been allowed to be continued in the School Education Department and it has been said that she will work in the said department on deputation, as she was working in the erstwhile State of Madhya Pradesh.

In view of the above order passed by the Government on 22/9/2004, all the impugned orders of this Writ Petition vide Annexure P-9, P-10 and P-11 are superceded and in fact, the petition can be disposed of on the face of this order passed by the State except for one contention as to whether the services of the petitioner can be held to be absorbed in the School Education Department or she can be absorbed in the School Education Department as per her choice.

Shri Tamaskar submits that this petition may be disposed of on the face of the order dated 22/9/2004 (Annexure R.A.) and the petitioner be given an opportunity to file a detailed representation before the concerned authority making prayers for treating her as the employee of the School Education Department and in alternative, for taking steps for her absorption in the School Education Department, if according to the rules

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

she cannot be treated/or observed as an employee of the School Education Department as an effect of the coming into force of the State re-organization and the laws operating in the field.

This prayer made by learned counsel for the petitioner on the face of the document- Annexure R.A is not opposed by learned counsel for the State.

The same is allowed.

On the face of the order passed by the Government on 22/9/2004 (Annexure R.A.), which superceded all the impugned orders, this Writ Petition is disposed of at this stage with a liberty to the petitioner to file a detailed representation before the Government raising the above points and if such a representation is filed, the Government shall be obliged to decide the same in accordance with law specially with reference to the law of re-organization and also with reference to the prevailing principles and rules regarding deputation and absorption of an employee in a particular department.

The petition stands finally disposed of.

No order as to cost.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge

(पीछे देखिये)